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**IOWA UTILITIES BOARD**  
**Policy Development Section**

Docket No.: EEP-2016-0002  
Utility: Liberty Utilities Corp  
File Date: February 17, 2016  
Memo Date: May 16, 2016

**TO:** The Board

**FROM:** Brenda Biddle

**SUBJECT:** Settlement Agreement for Energy Efficiency Plan

**I. Background**

In 2011, Liberty Utilities (Midstates Natural Gas) Corp. (Liberty) acquired all of the natural gas assets of Atmos Energy Corporation (Atmos) located in Iowa, Illinois, and Missouri. Liberty currently serves approximately 4,000 natural gas customers in Iowa, primarily in the city of Keokuk, Iowa.

Atmos' most recent energy efficiency plan (Plan)<sup>1</sup> was filed on March 28, 2003, for the five-year period of 2003 through 2008. The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, was the only other party to the proceeding. On May 27, 2003, the OCA filed a response to the plan stating that all issues had been resolved during the collaborative process prior to the plan filing. While a formal settlement was not filed, the fact that the filed plan reflected agreement between Atmos and OCA made the Board's review similar to that of a formal settlement. The Board issued an order approving the Plan on July 21, 2003.

On April 18, 2007, Atmos filed a request for waiver<sup>2</sup> of 199 Iowa Administrative Code (IAC) 35.4, 35.6, 35.8, and 35.10, which required Atmos to participate in a collaborative study with other rate-regulated utilities for the purpose of assessing the factors associated with the development, filing, and implementation of a new energy efficiency plan. Atmos asked for the waiver of the rules so that it could extend the 2003-2008 Plan. The OCA had no objection to Atmos' waiver request. The Board granted the waiver request on May 14, 2007.

Atmos continued to file annual reports for each year that provided spending and savings results for the energy efficiency programs offered and provided the planned spending for the following year. On September 17, 2010, Atmos filed a notice of intent to begin a rebate pilot program which offered appliance rebates

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<sup>1</sup> Docket No. EEP-03-3

<sup>2</sup> WRU-07-11-222

(furnaces, boilers, and hot water heater) that were similar to those offered by the other investor-owned utilities (IOUs). The pilot was expected to end in 2013. However, due to the transition in ownership from Atmos to Liberty, the pilot and the other energy efficiency programs were continued with no new Plan filing.

Since the appliance rebate pilot program appeared to be successful, Liberty met with OCA and IUB staff in the fourth quarter of 2014 to discuss the development of a new Plan that would include an appliance rebate program that would no longer be considered a pilot program. Liberty has worked extensively with OCA staff over the course of the past year to draft a new Plan. On February 17, 2016, Liberty filed an Application for Approval of its four-year Plan and requests for waiver of 199 IAC 35.4(4), 35.8(2)(d) and 35.10.

Liberty's Plan contains a description and additional information about the energy efficiency measures and programs to be offered, a summary of cost-effectiveness completed by The Cadmus Group (Cadmus) for the Company's Missouri operations in 2011, and a high-level budget by year.

The requests for waiver discuss specific Plan filing requirements. First, 199 IAC 35.4(4) requires Liberty to send a notice of its Plan to all affected customers no more than 62 days in advance of filing that Plan. Second, 199 IAC 35.8(2)(d) requires the Plan to cover a five-year period. Finally, 199 IAC 35.10 requires a gas utility's Plan to include information that specifies demand and volume forecasts, capacity surpluses and shortfalls, supply options, and avoided capacity and energy costs.

On March 4, 2016, OCA filed a response to Liberty's waiver requests. OCA concurred with Liberty's rationale for the waiver requests and agreed that the allowance of such requests is consistent with 199 IAC 1.3 and 35.7. The OCA does not object to Liberty's waiver requests. The Board issued an order on March 16, 2016, that docketed the plan, established a procedural schedule, and granted Liberty's request for a waiver of the requirements in 199 IAC 35.4(4), 35.8(2)(d) and 35.10.

On May 9, 2016, Liberty and OCA filed a Settlement Agreement related to Liberty's proposed 2016-2019 Plan.

## **II. Legal Standards**

Iowa Code 476.6(15). Energy efficiency implementation, cost review, and cost recovery.

- a. Gas and electric utilities required to be rate-regulated under this chapter shall file energy efficiency plans with the board. An energy efficiency plan and budget shall include a range of programs, tailored to the needs of all customer classes, including residential, commercial, and industrial customers,

for energy efficiency opportunities. The plans shall include programs for qualified low-income persons including a cooperative program with any community action agency within the utility's service area to implement countywide or communitywide energy efficiency programs for qualified low-income persons. Rate-regulated gas and electric utilities shall utilize Iowa agencies and Iowa contractors to the maximum extent cost-effective in their energy efficiency plans filed with the board.

- b. A gas and electric utility required to be rate-regulated under this chapter shall assess potential energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility shall submit the assessment to the board. Upon receipt of the assessment, the board shall consult with the economic development authority to develop specific capacity and energy savings performance standards for each utility. The utility shall submit an energy efficiency plan which shall include economically achievable programs designed to attain these energy and capacity performance standards. The board shall periodically report the energy efficiency results including energy savings of each utility to the general assembly.
- e. The board shall conduct contested case proceedings for review of energy efficiency plans and budgets filed by gas and electric utilities required to be rate-regulated under this chapter. The board may approve, reject, or modify the plans and budgets. Notwithstanding the provisions of section 17A.19, subsection 5, in an application for judicial review of the board's decision concerning a utility's energy efficiency plan or budget, the reviewing court shall not order a stay. Whenever a request to modify an approved plan or budget is filed subsequently by the office of consumer advocate or a gas or electric utility required to be rate-regulated under this chapter, the board shall promptly initiate a formal proceeding if the board determines that any reasonable ground exists for investigating the request. The formal proceeding may be initiated at any time by the board on its own motion. Implementation of board-approved plans or budgets shall be considered continuous in nature and shall be subject to investigation at any time by the board or the office of the consumer advocate.

### **III. Analysis**

#### **Summary of Liberty's Energy Efficiency Plan**

The Plan filing provides thorough descriptions of Liberty's energy efficiency programs which include low-income weatherization, appliance rebate and school-based energy education. The estimated budget is \$90,539 per year for the four years, or \$362,156 in total.

Liberty has included some new features in its Plan. Liberty has agreed to partner with Green Iowa AmeriCorps (GIAC) to provide energy evaluations to its low-

income residential customers at no cost. GIAC will work with the Community Action Agency that provides the low-income weatherization program in Liberty's service territory. Additionally, the school-based education program will be supplemented by partnering with EarthWays Center of the Missouri Botanical Garden to provide three professional development workshops for the teachers delivering the education program. The appliance rebate program has been revised so the rebates are more consistent with those offered by the other IOU gas utilities and allows both residential and small commercial customers to apply for rebates. Liberty plans to eliminate the small commercial audit program since there has been no participation in the program since its inception in 2004.

Liberty provided a benefit-cost analysis that was performed by Cadmus in 2011 for Liberty's Missouri operations. Although the report from Cadmus does not include a societal benefit cost test that is required by 199 IAC 35.8(1)(e)(1),<sup>3</sup> it does provide the Total Resource Cost (TRC) test. The Societal Cost test is similar to the TRC except that it attempts to capture the larger benefit to society that isn't captured in energy savings alone. Liberty argued that because its service territories in Missouri and Iowa are similar (both rural), the benefit-cost results would be similar. Additionally, Liberty claimed that a separate analysis for the Iowa operations would be cost-prohibitive given the small customer base.

### *Settlement Agreement*

The Settlement Agreement addressed five issues including 1) Liberty's filing of a four-year rather than a five-year plan; 2) the Assessment of Potential; 3) the Benefit Cost ratios; 4) Potential IUB Request for Additional Information; and 5) Plan Changes. Below staff summarizes the Settlement Agreement related to each issue.

#### 1) Four-year rather than a five-year plan

Liberty proposed Plan is for the four-year period of 2016-2019 which differs from the other Iowa IOUs five-year Plans that cover 2014-2018. Liberty commits to filing a five-year plan beginning with the 2020-2024 plan cycle which will allow them to draw from the other IOUs' 2019-2023 plan filings and the underlying Assessment of Potential. The Settlement Agreement does not preclude Liberty from moving to the same five-year period used by the other Iowa IOUs.

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<sup>3</sup> Cost-effectiveness tests. The utility shall analyze for cost-effectiveness proposed programs, using the societal, utility, ratepayer impact and participant tests. The utility's analyses shall use inputs or factors realistically expected to influence cost-effective implementation of programs, including the avoided costs filed pursuant to rules 35.9(476) and 35.10(476) or avoided costs determined by the utility's alternative method. If the utility uses a test other than the societal test as the criterion for determining the cost-effectiveness of utility implementation of energy efficiency programs and plans, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test.

## 2) Assessment of Potential

The Plan proposed by Liberty does not reference an Assessment of Potential but does include measures offered by the other IOUs in their approved Plans. The other Iowa IOUs conducted a Joint Assessment of Potential to aid in the development of their 2014-2019 Plans. Liberty agrees to consider the Joint Assessment of Potential that will be conducted to support the IOU's 2019-2023 Plans. OCA and Liberty agreed that it is not necessary for Liberty to conduct a separate Assessment of Potential for its Iowa service territory.

## 3) Benefit Cost Ratios

Liberty's Plan relies on benefit-cost analysis conducted in 2011 for Liberty's Missouri operations. OCA and Liberty agree that Liberty will make informational filings with the Board when Liberty receives or conducts more recent benefit-cost analysis in its Missouri jurisdiction. Furthermore, Liberty proposes to promote cost-effective energy efficiency measures that are currently offered by the other Iowa IOUs' Plans.

## 4) Potential IUB Requests for Additional Information

Liberty and OCA agree that Liberty will continue to file the Energy Efficiency Annual Reports which are due on or before May 1 of each year. The reports will include itemized spending by budget categories found in 199 IAC 35.8(2)(d), a narrative of the Plan performance, and a summary of actual spending and savings impacts. Additionally, the annual reports will include (when available) Evaluation, Measurement and Verification (EM&V) reports for Iowa-specific programs and for Missouri energy efficiency programs and energy efficiency annual report filed by Liberty in Missouri.

## 5) Plan Changes

Liberty and OCA agree that Liberty will file any updates to its energy efficiency program features by January 31 of each year.

## Staff Analysis

Liberty's Plan provides energy efficiency programs for low-income and residential customers and also provides educational programs through its school-based energy education program. Liberty wants to discontinue the small commercial audit program because there has been no participation in the program since it began in 2004. However, small commercial customers can receive rebates through the appliance rebate program.

The table below compares Liberty's proposed annual budget to the actual amount it spent on energy efficiency programs in 2015 and its 2015 energy efficiency budget.

<b>Program</b>	<b>2015 Actual Spending</b>	<b>2015 Budget</b>	<b>Proposed Budget (per year)</b>
Appliance Rebates	\$24,708	\$32,324	\$22,750
Low-Income Weatherization	\$21,000	\$50,000	\$52,000
Supplemental Low-Income Weatherization with GIAC	N/A	N/A	\$1,625
Energy Efficiency Education	\$4,239	\$10,000	\$4,804
Energy Efficiency Education through EarthWays Center	N/A	N/A	\$4,360
Iowa Energy Center and Center for Global & Regional Environmental Research & Regulatory Assessment	\$5,298	\$10,931	\$5,000
<b>Total</b>	<b>\$55,245</b>	<b>\$103,255</b>	<b>\$90,539</b>

The proposed Plan has a budget of \$90,539 per year which is slightly less than the current budget of \$103,255 per year. Over half of the budget (\$52,000) is for the low-income weatherization program. The actual spending on that program varies (between \$20,000 and \$57,000 from 2010 to 2015) each year based upon the activities of the Community Action Agency that provides the low-income weatherization program in Liberty's service territory. The proposed Plan also includes the appliance rebate program which has steadily attracted more customer participation since 2010 and provides incentives similar to those offered by the other Iowa IOUs. Overall, the Plan budget provides steady funding of the energy efficiency programs over the four-year period.

Liberty does not provide or reference an assessment of potential as required by 199 IAC 35.8. However, the other Iowa IOUs filed a Joint Assessment of Potential in their most recent energy efficiency plan filings (EEP-2012-0001 (Interstate Power & Light Company, EEP-2012-0002 (MidAmerican Energy Company) and EEP-2013-0001 (Black Hills Energy Company)). The findings in that study are likely applicable to Liberty's service territory in Iowa. Staff does not believe it is necessary for Liberty to conduct a separate Assessment of Potential for its service territory. According to the Settlement Agreement, Liberty agreed to consider the Joint Assessment of Potential that will be conducted to support the IOU's 2019-2023 Plans to support Liberty's next Plan filing.

According to 199 IAC 35.8(2) the cost-effectiveness threshold for the Plan as a whole should be a benefit-cost ratio of 1.0 or greater. Liberty provided a benefit-cost analysis that was performed by Cadmus in 2011 for Liberty's Missouri operations. Although the report from Cadmus does not include a societal benefit

cost test as required by 199 IAC 35.8(1)(e)(1),<sup>4</sup> it does provide the total resource cost (TRC) test. The societal cost test is similar to the TRC except that it attempts to capture the larger benefit to society that isn't captured in energy savings alone. Liberty argued that because its service territories in Missouri and Iowa are similar (both rural), the benefit-cost results would be similar. Additionally, Liberty claimed that a separate analysis for the Iowa operations would be cost-prohibitive given the small customer base.

Liberty's Appliance Rebate program passes the TRC test with a 1.45 benefit-cost ratio. Low-income programs are not tested for cost-effectiveness unless the utility wishes to present the results of the cost-effectiveness tests for informational purposes. Liberty does not present cost-effectiveness information for the school-based energy education program, but their program is similar to a program offered by other Iowa IOUs that have a benefit-cost ratio of greater than 1.0. Although Liberty does not provide a cost-effectiveness value for the plan as a whole, staff believes overall, the Plan would have a benefit-cost ratio of 1.0 or greater. In the Settlement agreement, Liberty agrees to make informational filings with the Board when more recent benefit-cost analysis from its Missouri jurisdiction is available and to promote cost-effective energy efficiency measures that are currently offered by the other Iowa IOUs.

Staff believes that Liberty's Plan provides its customers with continued access to energy efficiency programs that are cost-effective and also provides opportunities for Liberty to offer energy efficiency education to its customers. Staff recommends the Board approve the Settlement Agreement and Liberty's 2016-2019 Energy Efficiency Plan.

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<sup>4</sup> Cost-effectiveness tests. The utility shall analyze for cost-effectiveness proposed programs, using the societal, utility, ratepayer impact and participant tests. The utility's analyses shall use inputs or factors realistically expected to influence cost-effective implementation of programs, including the avoided costs filed pursuant to rules 35.9(476) and 35.10(476) or avoided costs determined by the utility's alternative method. If the utility uses a test other than the societal test as the criterion for determining the cost-effectiveness of utility implementation of energy efficiency programs and plans, the utility shall describe and justify its use of the alternative test or combination of tests and compare the resulting impacts with the impacts resulting from the societal test.

#### IV. Recommendation

Staff recommends the Board direct General Counsel to prepare for the Board's consideration an order canceling the procedural schedule in this docket, and approving the Settlement Agreement filed by Liberty and OCA.

#### RECOMMENDATION APPROVED

#### IOWA UTILITIES BOARD

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<u>/s/ Geri D. Huser</u>	<u>5-18-16</u>
	Date

<u>/s/ Elizabeth S. Jacobs</u>	<u>5-17-16</u>
	Date

<u>/s/ Nick Wagner</u>	<u>5-17-16</u>
	Date